

Item No. 6.1	Classification: Open	Date: July 8 2009	Meeting Name: Council Assembly
Report title:		Sustainable Communities Act proposals	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATION

1. That council assembly agrees that the proposals recommended by the panel (as set out in paragraph 12) be submitted to Government under the Sustainable Communities Act 2007.

BACKGROUND INFORMATION

2. The Sustainable Communities Act 2007 ("the Act") introduces a new procedure for councils to make proposals to Government, via the Local Government Association (LGA), to promote the sustainability of local communities (economic, social or environmental well-being). Councils need to work with local people to identify and agree proposals.
3. Sustainability in the Act is defined as encouraging the improvement of the economic, social or environmental wellbeing of an area. Social well being includes participation in civic and political activity.
4. The process for Southwark's response to the Act (and how we developed proposals) was agreed via Executive Member Decision 10 February 2009 by the Leader. The outline process is:

Jan/May	Develop proposals. The community and partners were invited to submitted proposals
18 June	Consult and try to reach agreement with a local 'panel'. This is required under the Act. The proposals that met the basic requirement of the Act (i.e. that it relates to something which councils are not already able to do) were shortlisted for consideration by the panel. The panel's recommendations are set out in this report.
8 July	Council Assembly agree which proposals will go forward
31 July	Deadline for submitting proposals to the Local Government Association (LGA), nominated by Government as the 'selector body' which will shortlist proposals nationally
Unknown	The LGA shortlists proposals and then negotiates with Secretary of State to seek agreement on proposals to implement
Unknown	Action by Government

KEY ISSUES FOR CONSIDERATION

Information to consider in making a decision

5. All proposals must be submitted by a local authority (or group of authorities) i.e. an group/individual may originate or develop a proposal, but all proposals require local authority endorsement. When deciding which proposals to submit, Council Assembly should consider the following:
6. The purpose of the Act:
 - a) It aims to promote the sustainability of local communities
 - b) It begins from the principle that local people know best what needs to be done, but that sometimes they need central government to act
 - c) It is also a new way for local authorities to ask central government to take action which they believe would better enable them to improve the economic, social or environmental well-being of their area
 - d) Government has stated that the Act is not a route for agreeing additional resources
7. The requirements of the Act:
 - a) To submit proposals a council must:
 - establish or recognise a panel of representatives of local persons
 - consult the panel about any proposal, and
 - try to reach agreement with the panel about proposals
 - b) If a proposal relates to a transfer of functions, the Council must consult that body
 - c) Authorities are able to make multiple proposals

The Constitution of the Panel

8. In accordance with Regulation 4(3)(a) of the Sustainable Communities Regulations 2008 ('the Regulations'), it is a requirement that sufficient representatives must be involved in that, in the opinion of the Council, local persons are adequately represented. This specifically means that the Council must have made an effort to include under-represented groups i.e. groups of local persons who in the opinion of the Council are under-represented in civic and political activity in the Council's area.
9. In order to meet the obligations under the Act and Regulations, the Council invited local residents and groups, and representatives from Southwark's Equality & Diversity Panel.
10. Each individual on the Panel had one vote/equal say. The Panel was constituted of:-
 - a) Individuals and groups that put shortlisted proposals forward i.e. 5 residents (including 3 councillors); and 4 local groups: Better Bankside; SNUB; Friends of Nursery Park Row and the Victory Community Park Committee; and the Creation Trust;

- b) Representatives from the Equality and Diversity Panel;
- c) The Chair of Overview and Scrutiny Committee; and
- d) The Leader (chair of the panel)

The panel's recommendations

11. Southwark's panel met on the 18th June to agree which proposals it wanted to recommend to Council Assembly. The panel was asked to reach a consensus on what proposals to recommend. Where it could not reach a consensus it was asked to vote, in this case a proposal required a two thirds majority to be recommended. Panel members were able to register their disagreement, but in the event no disagreements were registered.
12. The panel recommended that the following proposals be submitted to government under the Act:

A.	A legal duty to be imposed on Network Rail and any other rail operators to work in partnership with local authorities and local communities to safeguard and improve the environment directly relating to railway land and infrastructure
B.	To relax the requirement for 20mph zones, that every street must have "self-enforcing" calming measures. Remove the unconditional requirement i.e. it should be at the discretion of the council whether there are self enforcing calming measures and what form they take
C.	To create a clearer and more consistent tax regime to incentivise sustainable commuting and work related travel for businesses and their employees: 1) a comprehensive review of the current system, looking at all relevant tax legislation and guidance 2) exploring the scope for greater incentives
D.	To create a national no plastic bag day for the UK - No exchange of plastic bags between retailer and customer. Not stating the date but give example of 12 September
E.	Southwark Camera Partnership - Transfer of funding to a Southwark camera partnership (which will need to be established). Allow the Southwark camera partnership to keep revenue from existing cameras and, for example, used for road calming measures, and to move existing cameras
F.	Permaculture design principles - A permissive regime that enables Council to prioritise permaculture ¹ design principle in local planning policy

¹ The meaning of 'permaculture': promoting design that increases sustainability and self sufficiency of food supply and production within a wider context – recognising the overriding importance of food

I.	Unlawful use of properties - Penalties for unlawful use of a property , with the council having the ability to impose civil penalties on the freeholder to cover the costs of planning enforcement
J.	A change in the rules to allow councils to help smooth leaseholder repair bills - Change in the rules to allow councils to take deposits and prudently invest leaseholder funds, on a voluntary basis, to help smooth leaseholder repairs bills

13. The following proposals were withdrawn by the proposers:

G. Statutory requirements on parks.

- The specific aims around Burgess Park are to be taken forward through existing mechanisms.
- Proposer to work up a proposal to release funding to improve use of parks to promote the objectives of the Sustainable Communities Act, to submit in the next round

H. The government should support and set standards for the development of public libraries

- Proposer to develop further, moving to more local solutions rather than national standards, to submit in the next round

14. The table at appendix 1 below provides more information on each proposal, including the main policy/community/resource impacts.

Consultation

15. It is a requirement under the Act to consult and try to reach agreement with a panel. The arrangements for Southwark's panel are set out in paragraphs 8 to 10 above.
16. It is a requirement under the Act that where requesting a "transfer of function" the Council must first consult both the body which currently performs the function and the body which the local authority proposes to transfer the function to. This must be done before submitting a proposal to the LGA/Government.
17. Proposal E/Southwark Camera Partnership would involve a transfer of functions (i.e. the transfer of decisions that are currently made with funding from the London Safety Camera Partnership to a newly formed Southwark Partnership). The Council will therefore need to consult with the London Safety Camera Partnership (LSCP), Metropolitan Police, the Treasury and the Department for Transport (DfT) – officers formally wrote to the aforementioned bodies giving details of the draft proposal on 1/07/09 and inviting them to put forward their views by 27/07/09.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

18. The Sustainable Communities Act 2007 ('the Act') aims to promote the

sustainability of local communities. The basic principle is that local people know best what needs to be done to promote the sustainability of their area, but that sometimes they need central government to act to enable them to do so. It provides a channel for local people to ask central government to take such action. It is also a new way for local authorities to ask central government to take action which they believe would better enable them to improve the economic, social or environmental well-being of their area.

19. The Act is written to reflect the well-being powers that local authorities were granted by the Local Government Act 2000. The reason for making this link is to ensure that the Act supports the role of local authorities as community leaders and contributes to the broader agenda for partnership working at local level, including the development of Sustainable Community Strategies and the negotiation of Local Area Agreements.
20. The well-being power enables local authorities to do anything they consider likely to promote or improve the economic, social or environmental well-being of their area. The breadth of the power is such that councils can regard it as a 'power of first resort'. Further in section 1 "social well-being" includes participation in civic and political activity.
21. The 2007 Act requires the Secretary of State to invite local authorities to make proposals which they consider would contribute to promoting the sustainability of local communities, which may include a request for a transfer of functions from one person to another. The Secretary of State issued such an invitation in October 2008. The deadline for submitting proposals is 31 July 2009.
22. If a local authority makes such a proposal it must first consult both the body which currently performs the function and the body which the local authority proposes to transfer the function to. The functions that could be in scope are limited only by the principal aim of the Act, which is to promote the sustainability of local communities. All the relevant bodies have been consulted as is set out above at paragraph 17.
23. Before it makes a proposal a local authority must have regard to the matters specified in the Schedule to the Act. "Having regard to" means that the local authority needs to consider or take into account these matters. The list is intended to help councils decide whether proposals will contribute to the sustainability and wellbeing of the area. The list illustrates the type of issues with which proposals might be concerned, but the Schedule does not dictate or constrain the scope of proposals, if local people and the councils have other ideas which will contribute to a more sustainable community.
24. The 2007 Act is supported by regulations which require certain steps to be taken by a local authority before it makes proposals under section 2 of the 2007 Act. Before making any proposals: —
 - (a) a local authority must also have regard to the guidance issued by the Secretary of State under section 5(5) of the Act; and
 - (b) a local authority must establish a panel to consult the panel about any proposal and to try to reach agreement with the panel about proposals.
25. Under section 2 of the Act local proposals from councils can be put forward to the Secretary of State, aimed at improving the economic, social and environmental well-being of the area including participation in civic and political activity; this can include proposals to transfer functions from one organisation to another. The

Southwark Camera Partnership is a proposal of this type.

26. Generally councils are required to develop proposals through wider community consultation, using a panel or panels of local people, as required by the Sustainable Communities Regulations 2008 ('the Regulations'). Paragraphs 8 to 10 above set out how the panel was constituted.
27. Once members have decided to put forward the proposals, these will be sent to the Local Government Association (LGA). Under the Act proposals are short-listed by a Selector body. The LGA has taken on the role of the Selector.
28. The LGA acting as Selector will prepare a written report on the proposals, which will include, a list of any proposals that it has rejected and a statement of its reasons for selecting the proposals on the short-list and for rejecting any other proposals made by local authorities (Regulation 8).
29. The final decision about which proposals are put into effect lies with the Secretary of State, but in doing so the Act requires cooperation with the Selector (section 3(4) of the Act). The Secretary of State is also required to publish reasons for decisions, to publish an action plan and how proposals will be implemented (section 4 of the Act).

Finance Director

30. This report seeks approval to submit proposals to the Government via the LGA for changes at a national level that would help deliver projects and local work to support sustainability. At this initial proposal stage, there are no resource implications arising purely from recommending the submission of these proposals.
31. However, a number of the proposals would have resource implications were they to be implemented, as detailed in the table following paragraph 14. The full impact of these is not certain at this stage, nor is the potential funding arrangements from central government clear. However, the guidance from Communities and Local Government includes the following statement:

"There are established processes for settling the levels and distribution of public sector resources. The Government does not regard the Act as a route for agreeing additional public expenditure, either at national or local level, and so a particularly strong case will need to be made in support of any proposals that require this."
32. An estimate of the costs involved and benefits accrued from these measures will be included with any proposals agreed for submission to Government this July. Following this there will then be due process before any of these would result in national changes, and the implications to Southwark including resource implications will be reported to members during this process in line with standard governance arrangements."

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Executive member decision by the leader 10/02/09: Responding to the Sustainable Communities Act	http://moderngov.southwarksites.com/ieDecisionDetails.aspx?ID=469	
Minuets of the panel meeting	Town Hall, Peckham Road (until available on the Council website)	Claire Webb 020 7525 7136

APPENDICES

No.	Item
1.	Information on each proposal, including the main policy/community/resource impacts.

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Communities, Law & Governance	
Report Author	Claire Webb, Corporate Policy	
Version	Final	
Dated	June 25 2009	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Executive Member	No	No
Date final report sent to Constitutional Team	June 25 2009	